

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIM. CASE NO. 13-20600

v.

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

DR. FARID FATA

Defendant.

**ORDER IN RESPONSE TO DEFENDANT’S MEMORANDUM REGARDING
ISSUANCE OF SUBPOENAS TO HEALTH CARE PROVIDERS FOR ADDITIONAL
MEDICAL FILES OF VICTIM WITNESS PATIENTS THAT WILL BE CALLED BY
THE GOVERNMENT AT TRIAL**

The Court, in response to Defendant’s Memorandum with an attached proposed subpoena (Doc. #73), notes that Federal Rule of Criminal Procedure 17(c)(3) “Producing Documents and Objects” in response to a subpoena, states:

After a[n] . . . indictment is filed, a subpoena requiring the production of personal or confidential information about a victim may be served on a third party only by Court order. Before entering the order and unless there are exceptional circumstances, the Court must require giving notice to the victim so that the victim can move to quash or modify the subpoena, or otherwise object.

(emphasis added).

This provision was added in 2008 to implement the Crime Victims Rights Act:

“Third party subpoenas raise special concerns because a third party may not assert the victim’s interests, and the victim may be unaware of the subpoena . . . ‘the phrase personal or confidential information,’ which may include such things as medical or school

records, is left to case development. . . . The rule recognizes, however, that there may be exceptional circumstances in which this procedure may not be appropriate.

Given the aforequoted language, the Court proposes that Defendant also be required to serve the subpoena on the patient/victim so that he/she has an opportunity to object in court. In addition, the Court proposes that the return date on the subpoena be delayed for two weeks from the date of service to provide the patient/victim with time to object.

If Defendant disagrees with this proposal, the Court will set an immediate hearing on this issue. If there is no disagreement, provide a new proposed subpoena to the Court. Please respond to this Order by March 2, 2014.

SO ORDERED.

DATED: **FEB 24 2014**

A handwritten signature in blue ink, appearing to read "Paul D. Borman", is written over a horizontal line.

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE